

The Board notes, however, that appellant submitted a number of documents prior to the issuance of OWCP's September 18, 2017 decision which were not reviewed by OWCP. These

documents include a July 28, 2017 report of Dr. Sabry Gabriel, an attending family practitioner, August 2, 9, and 21, 2017 reports of Dr. Wayne Kelley, an attending Board-certified orthopedic surgeon, two August 21, 2017 reports of Dr. Winston Jeshuran, an attending Board-certified orthopedic surgeon, and an August 15, 2017 magnetic resonance imaging scan of the lumbar spine.

The Federal Employees' Compensation Act provides that OWCP shall determine and make findings of fact in making an award for or against payment of compensation after considering the claim presented by the employee and after completing such investigation as OWCP considers necessary with respect to the claim.¹ Since the Board's jurisdiction of a case is limited to reviewing that evidence which is before OWCP at the time of its final decision,² it is necessary that OWCP review all evidence submitted by a claimant and received by OWCP prior to issuance of its final decision. As the Board's decisions are final as to the subject matter appealed,³ it is crucial that all evidence relevant to that subject matter which was properly submitted to OWCP prior to the time of issuance of its final decision be addressed by OWCP.⁴

Herein, OWCP did not review evidence received prior to the issuance of its September 18, 2017 decision, *i.e.*, the documents described above. The Board, therefore, must set aside OWCP's September 18, 2017 decision and remand the case so that OWCP may fully consider the evidence that was properly submitted by appellant prior to the issuance of this decision. Following such further consideration, OWCP shall issue a *de novo* decision.

¹ 5 U.S.C. § 8124(a)(2).

² 20 C.F.R. § 501.2(c).

³ *Id.* at § 501.6(d).

⁴ *See E.P.*, Docket No. 14-0278 (issued February 26, 2014); *see also William A. Couch*, 41 ECAB 548, 553 (1990).

IT IS HEREBY ORDERED THAT the September 18, 2017 decision of the Office of Workers' Compensation Programs is set aside, and the case is remanded to OWCP for action consistent with this order.⁵

Issued: March 11, 2019
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board

⁵ The record contains a January 5, 2018 decision in which OWCP denied appellant's request for review of the written record by a representative of OWCP's Branch of Hearings and Review. Given the Board's disposition of the merit issue of the present case, it is premature to consider this nonmerit issue.